

DECLASSIFIED
Authority EG 12958
By AR NARA Date 10/27

DECLASSIFIED
PA/HO Department of State
E.O. 12958, as amended
July 12, 2005

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

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ACTION

MEMORANDUM FOR: THE PRESIDENT
FROM: HENRY A. KISSINGER *HK*
SUBJECT: Fisheries Dispute with Brazil

In my memorandum to you of May 20, I outlined our efforts to persuade Brazil to defer implementation of its fishing regulations from June 1 until this fall without consenting to bargain with Brazil on fisheries matters. On May 24, the Brazilian Foreign Minister informed our Ambassador that the regulations were now a matter of law and the Brazilian Government could not agree to delay their implementation.

The Departments of State and Defense have prepared several contingency options for dealing with the present situation. Essentially, Defense favors further efforts to persuade Brazil to postpone enforcement without agreeing to fisheries negotiations. State, on the other hand, recommends that at the very least we agree to fisheries negotiations with Brazil this fall and, that we be prepared to enter into immediate negotiations for a modus vivendi if that proves necessary.

I believe that the course of action favored by the Defense Department involves unnecessary risks of confrontation with Brazil. Moreover, the ensuing crisis atmosphere would probably do more damage to the chances for a broad international agreement on a Law of the Sea Conference than would the mere fact of entering into negotiations on the fisheries matter. A confrontation on fisheries would harden the Brazilian and Latin attitudes on navigation rights, which are of paramount importance to us. In effect, our Law of the Sea interest and our bilateral interest are probably identical in this instance: to avoid a fisheries crisis.

I think, therefore, that we should consent now to enter into negotiations with Brazil this fall on fisheries matters. This course of action will meet the principal concern of the Brazilians, i. e., that we agree to talk about fisheries, but will allow us time to formulate a negotiating posture consistent with our overall oceans policy review now underway in NSSM 125

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and possibly to try out a new multilateral approach at the UN preparatory law of the sea meeting in Geneva this summer. An expressed willingness to negotiate on our part should convince the Brazilians of our reasonableness and is likely though not certain to avert seizures of U.S. fishing vessels operating in the contested waters in the interim.

I also believe that as a fall back position, we should be prepared to enter into immediate exploratory discussions with the Brazilians, if they insist that negotiations cannot wait until this fall. We would, however, draw these discussions out so as to permit us time to formulate an overall approach.

Depending on the Brazilians response to the foregoing approach, we are also considering the usefulness of a letter from you to President Medici to stress your personal interest in these matters, particularly as they relate to the ultimate success of multilateral law of the sea negotiations.

RECOMMENDATION:

That you approve the NSDM at Tab A.

Approve



Disapprove

Attachment